**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**FARAD CONTINUATION SHEET.**
**SECOND APPEAL NO.170 OF 2005**

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| Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders. | Court's or Judge's orders |
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Mr.R.S.Kate for the Appellants

**CORAM: A.S.OKA,J.**
**DATE : MARCH 3,2005.**

**P.C.:**

1. The original Defendant Nos.32 and 42 have preferred this Appeal for challenging the decree for partition and separate possession passed by the Trial Court and confirmed by the Appellate Court. The main contention raised by the Appellant is that they are the bonafide purchasers for the value paid. The Appellate Court has held that plea of bonafide purchaser cannot be accepted for the simple reason that the Appellants have not stepped into the witness box and have not led any evidence. The Appellants are claiming under the original Defendant No.1. The Trial Court while passing preliminary decree has observed that the lands which were sold by the original Defendant No.1 to the other Defendants will be preferably

allotted to the share of Defendant No.1 while effecting partition.

2. The Courts below have recorded a concurrent finding of fact that the Appellants are not the bonafide purchasers. The Courts below have also found that the suit property is liable to be subjected for partition. While passing the decree for partition, the Trial Court has taken care to protect the purchasers who are claiming though Defendant No.1.

3. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

**JUDGE.**